

STATUTES

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Founding organisations

1.

The Danish Mortgage Credit Complaint Board (hereinafter ‘the Complaint Board’) (*Realkreditankenævnet*) was set up by the Danish Mortgage Bank Federation (*Realkreditrådet*), the Association of Danish Mortgage Banks (*Realkreditforeningen*) and the Danish Consumer Council THINK (*Forbrugerrådet Tænk*) (in the following referred to as “the founding organisations of the Mortgage Credit Complaint Board”).

Jurisdiction of the Complaint Board

2.

2.1 The Complaint Board handles complaints concerning private customer relationships against Danish mortgage banks as well as their subsidiaries established in Denmark. Furthermore, the Complaint Board may handle complaints against a mortgage bank established in a foreign country if the matter is associated more closely with Denmark than with the country of establishment, or if the parties agree thereon.

2.2 The Complaint Board may handle complaints from businesses if the complaint does not differ significantly from a complaint concerning a private customer relationship. Complaints from businesses generally fall outside the Complaint Board’s jurisdiction.

2.3 A complaint may concern all aspects of the legal relationship between the parties, including those occurring before an actual customer relationship has been established.

2.4 Agreements to the effect that disputes must be referred to arbitration or another special forum do not preclude submitting the complaint to the Complaint Board.

2.5 If a matter has been brought before an arbitration tribunal or another special forum and the consumer would like to bring it before the Complaint Board, the arbitration proceedings must be stayed pending the Complaint Board’s consideration.

3.

3.1 The Complaint Board cannot handle cases that have been decided by final judgment, valid and binding arbitration or court settlement, or cases expected to be decided in the context of criminal proceedings. Arbitration awards are only binding if, prior to the arbitration proceedings, the complainant has been informed of the option of handling by the Complaint Board.

3.2 For as long as a complaint is pending before the Complaint Board, the parties to the complaint cannot institute proceedings before the courts concerning the issues comprised by the complaint.

3.3 If a complaint has been taken to court and the consumer wants it to be brought before the Complaint Board, cf. section 361 of the Danish Administration of Justice Act (*Retsplejeloven*), the court will dismiss the case and refer it to the Complaint Board, unless it must be considered evident that the consumer will not succeed in the complaint or the matter is considered unsuited for handling by the Complaint Board.

4.

Complaints assigned by law to be handled by public authorities or other dispute resolution bodies fall outside the jurisdiction of the Complaint Board.

Refusal of complaints

5.

5.1 The Complaint Board must refuse to handle complaints that fall within the jurisdiction of, are being or have been handled by another private dispute resolution body, a statutory alternative dispute resolution body notified to the European Commission, a foreign dispute resolution body notified to the European Commission, the Danish Competition and Consumer Authority (*Konkurrence- og Forbrugerstyrelsen*), or a court of law.

5.2 Complaints against a mortgage bank established in Denmark and one or more other countries may be refused if the complaints are associated more closely with a country other than Denmark.

5.3 The Complaint Board may refuse to handle a complaint if

- 1) the complainant failed to first complain to the person or branch of the mortgage bank responsible for handling complaints or if the mortgage bank has not finished processing the complaint. The Complaint Board may start processing a complaint if the mortgage bank has refused the claim or if the complainant and the mortgage bank have failed to reach a settlement within five weeks of receipt of a complaint
- 2) the complaint is frivolous or vexatious
- 3) the complaint is deemed inappropriate for consideration by the Complaint Board on account of its general legal nature, uncertainty regarding assessment of the facts received or for other special reasons, or
- 4) handling the complaint will seriously prevent the Complaint Board from functioning effectively.

5.4 If a complaint can evidently not be handled by the Complaint Board, the Complaint Board will refuse it within three weeks of receipt. In other cases, the complaint must be refused as soon as possible.

5.5 Refusal of a complaint must be reasoned, and the complainant must be informed of the possibility of taking the complaint to court, recovering legal expenses and applying for free legal aid. In addition, where relevant, the complainant must be informed that the claim may become time-barred.

6.

6.1 If the complaint evidently falls outside the jurisdiction of the Complaint Board, the secretariat may refuse it. The reasons for the refusal must be given to the complainant, who must also be informed that the refusal can be brought before the Complaint Board. This is done at the instance of the secretariat, if the complainant so requests.

6.2 On behalf of the Complaint Board, by virtue of article 5.3, the founding organisations may authorise the chairman to refuse complaints not considered appropriate for handling by the Complaint Board.

6.3 Refusals according to section 2 must be reasoned and the complainant must be informed of the possibility of taking the complaint to court and of the possibility of recovering legal expenses and/or applying for fee legal aid.

Composition of the Complaint Board

7.

7.1 The Complaint Board comprises a chairman, who is a judge, and a number of board members to be specified by the founding organisations. The founding organisations may appoint one or more vice-chairmen for the Complaint Board with the same qualifications as the chairman. If the chairman cannot attend a meeting or cannot participate in the handling of a complaint due to disqualification, it is possible for a single meeting or one single case to appoint a judge to substitute the chairman. The appointment of the substitute is effected by the Supreme Court President upon a written request from the Complaint Board.

7.2 The chairman and the board members shall be appointed by the founding organisations for terms of three years. Reappointment is possible. The members shall resign from their position at the end of the year in which they reach the age of 70. Under extraordinary circumstances and within the legislative framework, the founding

organisations may grant exemption from the age requirement in sentence 3. All members are appointed for the same term.

7.3 The stipulations in these statutes concerning the chairman and the chairman's authority shall apply similarly to any vice-chairman with respect to cases involving the vice-chairman's current, past or future participation.

7.4 The founding organisations specify the rules of procedure of the Complaint Board.

7.5 To the extent that this is required for the handling of the cases, the Complaint Board shall appoint a number of experts, upon the recommendation of the founding organisations, to assist the secretariat in the preparation of cases or the handling of cases of the Complaint Board.

Tasks of the secretariat

8.

8.1 The Complaint Board has a secretariat, which must be independent of the founding organisations. The founding organisations will jointly appoint the director of the secretariat. The secretariat is tasked with answering written, telephone and personal enquiries to the Complaint Board and with preparing the complaints for the Complaint Board's consideration.

8.2 Complaints may be submitted electronically and, if electronic submission is neither feasible nor reasonable, by ordinary mail. The complainant may be required to submit the complaint on a form drafted by the secretariat. For the purpose of the case handling, when submitting a complaint to the Complaint Board the complainant must consent to the mortgage bank's disclosure of information to the Complaint Board notwithstanding its duty of confidentiality.

9.

Complaints received by the Complaint Board, but which are subject to the jurisdiction of another approved private dispute resolution body, the Danish Competition and Consumer Authority or a statutory dispute resolution body under the Danish Act on Consumer Complaints (*Forbrugerklageloven*), must be forwarded to such other bodies by the secretariat. If the complaint does not fall under a dispute resolution body as set out in the first sentence, the complainant can be referred to bringing the matter before the ordinary courts. In that case, the complainant must be informed of the possibility of legal expense recovery and free legal aid.

10.

Before the processing of the complaint commences, the complainant must be informed that he or she may withdraw the complaint at any time, after which the case will be closed. If the complaint is withdrawn, the Complaint Board is not under obligation to repay the complaint fee.

11.

The parties must be informed as soon as possible that they are not obliged to retain a lawyer or legal adviser, but may seek independent advice or be represented or assisted by a third party throughout all phases of the complaints procedure. In addition, the parties must be advised that the Complaint Board's handling of the complaint does not prevent them from seeking judicial review.

12.

12.1 Upon receipt of the complaint the secretariat will request a statement from the mortgage bank complained against. When the secretariat has received the response from the mortgage bank, this shall be presented to the complainant for comments. Additionally, the secretariat will ensure that the matters of the case be disclosed and shall, on its own initiative, provide the necessary legal and factual basis for the decision, including a written expert statement if this is required for reaching a decision in the case. Furthermore, the secretariat shall ensure that each of the parties is informed about disclosures from the other party that are important for the decision of the case, and about any written expert statements. To the extent necessary, the secretariat will also provide guidance to the parties on their legal position.

12.2 The secretariat will fix a time limit of usually five weeks for the parties to submit the statements mentioned in 12.1 as well as other statements that the secretariat may find necessary. The time limit runs from the date when the secretariat requests statements from the parties. If the mortgage bank has not made a statement before the expiry of the time limit, and the secretariat has not extended the time limit at the request of the mortgage bank, the secretariat may refer the case to the Complaint Board which may choose to make a decision in the case on the basis of the existing body of documentation.

12.3 Once all documents with the relevant information have been received, including any expert opinions, the parties will immediately be notified thereof.

12.4 The secretariat may seek to settle the matter between the parties. It must appear from a proposed settlement that the secretariat has processed the complaint and that the parties can demand that it be presented to the Complaint Board.

12.5 At each meeting of the Complaint Board, the secretariat must produce an outline of the complaints settled with the assistance of the secretariat since the Complaint Board's last meeting. The outline must briefly specify the content of the settlement.

12.6 The secretariat will close the case if, during the preparation, the mortgage bank complies with the complainant's claim or the parties make a settlement. The same applies if the consumer waives his or her complaint.

12.7 The secretariat submits complaints to the Complaint Board that are not resolved during the preparatory stage of the processing.

Conflict of interest and confidentiality

13.

13.1 Members of the Complaint Board, the secretariat staff and experts,

- 1) may not be instructed by any of the parties or their representatives, and
- 2) may not be remunerated in a way that is linked to the outcome of the procedure.

13.2 In addition, secretariat staff must be appointed for a term of office of sufficient duration to ensure the independence of their actions and to prevent their being relieved from their duties without just cause.

14.

14.1 No person may participate in the handling of a case if

- 1) he or she has a special personal or financial interest in its outcome or, in respect of the same case, is or has been a representative of someone with such an interest,
- 2) that person's spouse, relatives by blood or by marriage in ascending or descending line or in the collateral line as close as a cousin, niece or nephew, or other related parties have a special personal or financial interest in its outcome or is a representative of someone with such an interest, or
- 3) other circumstances exist which may give rise to doubts about that person's complete impartiality.

15.

Complaint Board members, the Danish Competition and Consumer Authority, secretariat staff and any experts appointed by the Complaint Board are subject to a duty of confidentiality with respect to information disclosed to them in the course of the complaints procedure, except for publicly available information.

Decisions of the Complaint Board

16.

16.1 The Complaint Board makes its decisions on the basis of a simple majority of votes at a meeting of the Complaint Board where the chairman or a vice-chairman and four of the members mentioned in article 7 participate in handling the individual complaints so that the consumer's and the mortgage bank's interests are equally represented. The Complaint Board forms a quorum when, apart from the chairman, at least one consumer representative and at least one mortgage bank representative attend the meeting. If a mortgage bank or consumer representative board member cannot attend a meeting, his or her vote will be given to the mortgage bank or consumer representative board member present at the meeting. If a principled decision is made at a board meeting, the secretariat will prepare a decision report to be sent to the board members not present at the meeting.

16.3 A representative of the Danish Competition and Consumer Authority is entitled at any time to attend the meetings of the Complaint Board but has no voting right.

16.4 The Complaint Board will hold ordinary meetings 8-10 times a year. The number of meetings will be depend on the number of cases and will ensure compliance with the time limits of sections 17 and 18 of the Danish Act on Consumer Complaints.

17.

17.1 The Complaint Board makes its decisions based on a legal and professional assessment, including payment of the fees and costs, cf. section 24.

17.2 At the request of a party or of its own motion, the Complaint Board may obtain expert opinions or statements.

17.3 In special cases, at the request of a party or of its own motion, the Complaint Board may summon the parties for an oral hearing. If, for no lawful, notified reason the complainant fails to turn up at such proceedings or fails to provide the information requested by the Complaint Board, the Complaint Board may refuse the complaint or handle it on the information available. If the mortgage bank fails to turn up or provide the information requested by the Complaint Board, the complaint may similarly be handled on the information available.

17.4 The decision shall be based on a legal evaluation of the circumstances of the case.

18.

18.1 The Complaint Board must decide a complaint within a period of 90 days from the time when all information relating to the case has become available.

18.2 In special cases the Complaint Board may extend the time limit according to article 18.1. In such event, the Complaint Board must inform the parties of the extension of the time limit and of the time when the case can be expected to be decided and concluded, respectively.

18.3 In special cases, the Complaint Board may postpone the handling of a complaint. In such event the Complaint Board must notify the parties of the reasons for the postponement and, if possible, when the handling of the complaint can be expected to be continued.

19.

19.1 Decisions must be reasoned and made in writing on a durable medium. It must state the name of the chairman participating in the decision. A time limit of usually 30 calendar days will be fixed for compliance with the decision.

19.2 Any majority decisions shall include the minority's reasoned dissenting opinion.

19.3 Any repayment of the complaint fee must be set out in the decision; see article 26.

19.4 If the complainant succeeds with the complaint in full or in part, notice of the decision must be given to the mortgage bank, unless the mortgage bank has waived service and notice in the specific case, cf. section 160 of the Danish Administration of Justice Act. In connection with servicing the decision, the mortgage bank shall be informed that if the mortgage bank does not wish to be bound by the decision, it shall give written notice to this effect to the Complaint Board within 30 days of the decision being served. If the mortgage bank has waived service and notice, the 30-day time limit shall be calculated from the date of the decision. Furthermore, the mortgage bank shall be informed that any request, submitted before the expiry of the time limit, to reopen the case will have a suspensive effect, and that a decision may be enforced if the mortgage bank has not given notice, prior to the expiry of the time limit, that the mortgage bank does not wish to be bound by the decision or has requested that the case be reopened. The complainant shall receive a copy of the decision.

19.5 If the mortgage bank does not wish to be bound by the Complaint Board's decision, it must notify the Complaint Board thereof in writing within 30 calendar days

of the date on which notice of the decision was given to the mortgage bank, cf. article 19.4.

19.6 If the case has been brought before the Complaint Board by referral from a court or arbitration tribunal, the Complaint Board must send a copy of the decision to the court or arbitration tribunal without delay.

20.

Both parties shall be informed of the possibility to bring the case before the courts, granting free legal aid and coverage of legal costs through legal aid insurance, if applicable.

Furthermore, the complainant must, where relevant, be informed of

- 1) the right to have the Danish Competition and Consumer Authority issue process on behalf of the consumer and cover certain expenses in connection with legal proceedings,
- 2) the possibility to obtain free legal aid or coverage of legal expenses, potentially through a legal expenses insurance and that
- 3) the claim may become time-barred if not taken to court within a year of the the Complaint Board's decision.

21.

21.1 The founding organisations may authorise the chairman to decide certain complaints on behalf of the Complaint Board for which established practice exists and/or where it must be considered evident that the Complaint Board cannot find for the complainant. The authorisation may be revoked at any time.

21.2 Before a decision is made with reference to such authorisation, a draft decision shall be made available for review at a Complaint Board meeting and if one of the Board members makes a request to this effect, the case must be decided at a Complaint Board meeting.

22.

22.1 The Complaint Board shall continuously forward copies of its decisions to the Danish Financial Supervisory Authority (*Finanstilsynet*).

22.2 The Danish Competition and Consumer Authority can at any time request to receive copies of the Complaint Board's decisions, including refusals.

Reopening a complaint

23.

23.1 The chairman can decide to reopen a decided case if special reasons so warrant, including particularly in the case of

- 1) the excused absence of a party that has expressed no opinion in the case, or
- 2) new information which - had it been available for the Complaint Board's consideration - must be assumed to have resulted in a different outcome of the case.

23.2 A request from the mortgage bank to reopen the case submitted in writing to the Complaint Board within 30 calendar days of the date on which notice of the decision was given – or the date of the decision if the mortgage bank has waived service and notice, cf. section 16.4 - will have a suspensive effect. Subsequently, the 30-day time limit shall be calculated from the time when the request to reopen the case was dismissed or when the Complaint Board made a decision in the reopened case.

23.3 Requests for reopening submitted by the mortgage bank after the expiry of the time limit in 23.2 shall be rejected.

Enforcement

24.

24.1 Both parties must be notified of the possibility to take the complaint to court, cf. however 24.2.

24.2 The Complaint Board's decision can be enforced against the mortgage bank after expiry of the time limits of articles 18.4 and 22.2, unless, before expiry of the time limits, the mortgage bank has notified the Complaint Board in writing that it does not want to be bound by the decision.

24.3 An enforcement request to the bailiff's court must be accompanied by the decision forming the basis of the enforcement request and a declaration from the Complaint Board that the mortgage bank has failed to state within the time limits of article 22.2 that it does not wish to be bound by the decision.

Fees and costs

25.

25.1 Neither party must pay costs to the other party in relation to the complaints procedure.

25.2 The Complaint Board must pay all costs related to the complaints procedure, including the cost of obtaining opinions or statements by virtue of article 16.2.

25.3 In connection with an oral hearing according to article 16.3, the Complaint Board may reimburse the complainant for his or her travel expenses, etc., if special circumstances so warrant.

26.

26.1 The complainant must pay a fee of DKK 200 (inclusive of VAT) for having a complaint considered by the Complaint Board. The fee is repaid to the complainant if the complaint is dismissed by the Complaint Board, is withdrawn or lapses, cf. article 12.6, if the he or she succeeds with the complaint in full or in part, or if the case is considered unsuitable for handling by the Complaint Board and is therefore dismissed.

Information requirements for complaints submitted through the European Commission's online dispute resolution platform (ODR platform); see regulation no. 524/2013 of 21 May 2013

27.

27.1 When the Complaint Board receives a complaint through the European Commission's ODR platform, the Complaint Board must notify the parties and the ODR platform as soon as possible about whether the complaint is accepted for consideration or refused under sections 14, 15 or 16 of the Danish Act on Consumer Complaints.

27.2 If the complaint is accepted for consideration, see article 27.1, the parties must concurrently be informed of the Complaint Board's procedural rules and the fees that may be imposed by virtue of article 24 of these Statutes.

27.3 Once the Complaint Board has agreed to consider the complaint received through the ODR platform and all information relating to the case has become available, the Complaint Board must inform the parties and the platform thereof; see article 18.1 of these Statutes.

27.4 Immediately after the case has been concluded the Complaint Board must notify the ODR platform of the dates on which it received and concluded the case, respectively, and of the outcome of the complaints procedure.

28.

On its website the Complaint Board provides links to the European Commission's list of alternative dispute resolution bodies (ADR bodies); see Article 20(4) of the European Parliament's and the Council's directive on alternative dispute resolution for consumer disputes (the ADR directive).

Annual report and disclosure requirements, etc.

29.

29.1 The Complaint Board must prepare an annual report on its activities in the year under review and on the administration in general. The annual report must provide information on

- 1) the number of complaints received and the type of disputes relating to the complaints,
- 2) the percentage of cases discontinued before a result was achieved,
- 3) the average complaint processing time,
- 4) systematic or essential problems frequently seen and resulting in disputes between the complainants and the mortgage banks. Such information may be accompanied by recommendations to resolve or avoid such problems,
- 5) the number of complaints refused, including the percentage of complaints refused relative to each of the refusal options that have been approved for the Complaint Board,
- 6) the percentage of cases in which the complainant succeeded,
- 7) the extent to which decisions are complied with, if known, and
- 8) details on any participation in networks cooperating on cross-border disputes and an evaluation of their effectiveness.

29.2 The Complaint Board reports to the Danish Competition and Consumer Authority on an annual basis. Furthermore, the annual report is sent to the Danish Financial Supervisory Authority.

30.

30.1 Rules regarding the Complaint Board's financing, budgets, auditing and accounts etc. are determined by the Association of Danish Mortgage Banks and the Danish Mortgage Bank Federation.

30.2 The Complaint Board is bound by the joint signatures of the chairman and the CEO of the Danish Association of Danish Mortgage Banks and the Danish Mortgage Bank Federation or by the joint signatures of the director of the Complaint Board and the chairman or the CEO of the Association of Danish Mortgage Banks and the Danish Mortgage Bank Federation.

Information obligation

31.

31.1 The Complaint Board must establish and update a website. The website must provide the following information in a clear and easily accessible manner and, on request, also on a durable medium,

- 1) the dispute resolution procedure
- 2) the full name of the Complaint Board, its postal and email address,
- 3) the entry of the Complaint Board on a list in accordance with section 4(3) of the Danish Act on Consumer Complaints and article 20 of the ADR directive,
- 4) the physical persons responsible for the Complaint Board and the manner and duration of their appointment,
- 5) any memberships of ADR bodies facilitating cross-border dispute resolution,
- 6) the types of disputes which the Complaint Board can handle,
- 7) the procedural rules applying to dispute resolution and the criteria on the basis of which the Complaint Board may refuse to handle a complaint,
- 8) the languages in which complaints may be filed, and the languages of the complaints procedure,
- 9) the case-handling costs to be covered by the parties,
- 10) the average duration of dispute resolution,
- 11) the legal effect of the outcome of dispute resolution, including the extent to which it can be enforced,
- 12) annual reports on the Complaint Board's activities, and on
- 13) selected decisions, possibly in abbreviated form. The names of the complainant and any third parties are made anonymous when decisions are published. The Complaint Board may also choose to withhold the identity of the mortgage bank as well, if special reasons so warrant. Publication must be made in accordance with the Danish Act on Processing of Personal Data (*Persondataloven*).

32.

In connection with publishing decisions on the website, it must be stated if the mortgage bank has given notice that it does not wish to be bound by the Complaint Board's decision. On the Complaint Board's website it shall be possible to find

information about mortgage banks that do not adhere to the Complaint Board's decision.

33.

By approaching the Complaint Board's secretariat any person can demand to be informed of the Complaint Board's decisions, if identifiable. The names of complainants and third parties must be anonymised. When deciding a case, if special reasons so warrant, the Complaint Board may decide to withhold the identity of the mortgage bank as well, cf. section 31.13. Passing on of information must be in accordance with the rules of the Danish Act on Processing of Personal Data (*Persondataloven*). The secretariat can forward photocopies or electronic copies of decisions and may fix a fee to cover the costs of providing such photocopies.

Amendment of the Statutes and Dissolution of the Complaint Board

34.

Amendment of these Statutes is subject to agreement between the founding organisations, see article 1, and subject to approval by the Minister for Business and Growth.

35.

The founding organisations of the Complaint Board may withdraw from the Complaint Board at one year's notice in which case the Complaint Board will be dissolved. In connection with such dissolution, adequate terms for the closing of pending cases, etc., must be laid down.

Commencement and transitional provisions

36.

36.1 These Statutes enter into force on 1 February 2016.

36.2 The case processing time limits in articles 5.4 and 18 of these Statutes only apply to cases brought before the Complaint Board after 1 October 2015. Cases brought before the Complaint Board prior to 1 October 2015 are governed by the previous rules.

The Minister for Business and Growth has approved these Statutes up to and including 31 January 2019.